

HB 105 PROVIDE INSURANCE COMMISSIONER AUTHORITY TO REVIEW AND APPROVE HEALTH INSURANCE PREMIUMS

Frequently Asked Questions

Why does Montana need the authority to review and approve health insurance premium rate increases when the minimum loss ratio requirements are now in effect across the country?

The minimum loss ratio (MLR) is only one measure of the value of a whole line of health insurance business—the percentage of the premium dollars that are spent on actual care in comparison to the dollars used for administrative expenses. MLR is a good tool for measuring overall company performance. However, MLR does not tell consumers and regulators if a premium rate is fair or unreasonable. MLR also does not show consumers how the premium costs relate to the benefits their health plan provides or show regulators if a health plan follows laws on discrimination. An insurer may appear to be in compliance with the minimum loss ratio, but its products may still not be a good value.

The federal law prohibits “unreasonable” rate increases. The law regarding unreasonable rate increases is separate from and in addition to the law on MLR. If Montana does not have the authority to review rates, consumers and companies will have to depend on the federal government to carry out this function. Oversight at the state level gives consumers and companies access to direct, prompt, meaningful interaction with Montana regulators who understand our people, our communities and our markets.

Federal regulations now require review of rate increases greater than 10% to determine if they are “unreasonable.” Federal authorities have made it clear that if states do not have “effective” rate authority, they will step in and review rates. The solvency of Montana companies should not be jeopardized by a federal system that could be mired down in delays. State-based review of health insurance rates would be more responsive to domestic health insurance companies. Most Montanans are insured by a domestic insurance company.

Montana consumers may be harmed if the Insurance Commissioner does not have the authority to disapprove a rate that is shown to be unreasonable. HB 105 would give the Commissioner the ability to do that.

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Does Montana review and approve other types of insurance rates?

Yes. The Insurance Commissioner reviews rates of other lines of insurance, including property and casualty, Medicare supplement, long-term care and credit life and disability insurance. In those lines of insurance, Montana consumers are protected because the Commissioner has the authority to review rates and disapprove them if they do not comply with applicable legal standards. Consumers can be confident that their premium increases are justified and necessary for a company to remain solvent and pay claims.

Do Montana's neighbouring states have authority to review and approve health insurance rates?

Montana is one of only three states, including Georgia and Missouri, which has no authority to review rates. In fact, health insurers have never even filed rate increases with the Commissioner in Montana. Thirty-two states, including North and South Dakota, have the ability to approve rates before they go into effect. Seven additional states, including Idaho and Wyoming, allow companies to use the new rates while they are under review, but may subsequently disapprove them. Eight other states require routine rate filing and review for transparency purposes.

CSI learns about rate increases only when consumers contact the agency. When a consumer calls, CSI can use its existing authority to request information, including rates from a particular company, but it has no authority to disapprove rates. HB 105 requires companies to file rates before they are put into use. This bill includes a "deemer" provision, allowing proposed rates to go into effect within 60 days if the Commissioner does not formally disapprove. Rates are also "deemed" approved if the company submits an MLR guarantee. Approval can be withdrawn under certain limited circumstances if the data is inaccurate.

What other states have laws similar to this bill?

HB 105 is an effort to get Montana into the middle of spectrum on rate review. Kentucky's law provided one model for mid-level review. The Minimum Loss Ratio guarantee section was adapted from Minnesota's law. Many states are seeking to revisit an increase their rate authority based on the minimum standards in the federal law.

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Is there anything to prevent a Commissioner from using rate disapproval authority to punish a company unfairly or discriminate against a particular company?

Montana's Insurance Commissioner is elected directly by the people and has sworn to uphold the laws of the state. Under the Montana Constitution the State Auditor, or Insurance Commissioner, is charged with ensuring "the interests of insurance consumers are protected." It is of great interest to consumers that insurance companies' are viable and the market continues to function. Most state insurance commissioners, even those who are appointed, carry more authority in health insurance regulation than does Montana.

If this bill becomes law, the commissioner may disapprove a rate only after considering if 1) the proposed rate does not comply with current law, 2) the proposed rate is not justified in relation to the benefits provided, 3) the proposed rate is excessive, inadequate, or unfairly discriminatory, 4) the proposed rate is based on unreasonable administrative expenses, and 5) the proposed rate cannot be justified by the math.

Further, the Commissioner may examine many other factors in determining if rates are unreasonable or excessive, including a company's financial position, medical cost trends, the projected minimum loss ratio, anticipated market changes, changes in coverage design, start up costs, and cost containment strategies.

The Commissioner will not be able to delay rates from going into effect by failing to act. The rates go into effect if the Commission does not act.

In addition, insurers can challenge any disapproval or withdrawal of approval by requesting a hearing and requesting further judicial review, if necessary. In the meantime, the disputed rate remains in effect.

Won't the processes in Sections 1 and 2 delay insurance companies' ability to put their legitimate and needed rate increases into effect, hampering their ability to remain solvent?

No, companies are already required to notify their own customers of rate increases that affect them 60 days in advance for group health plans and 45 days for individual health plans. Companies will simply be required to file those rates with the commissioner's office at the same time (60 days before use). There is no significant delay for the filing process.

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If a company chooses the minimum loss ratio guarantee in Section 6, can the Commissioner disapprove the new rate?

The Commissioner may not disapprove a rate if the company has submitted the MLR guarantee. It is “deemed” approved. The Commissioner may withdraw approval of a rate filing, including those “deemed” approved only in the very narrow circumstances noted above: 1) the filing contained misrepresentations or material omissions of relevant information or was based on fraudulent information, or 2) new information comes to light that would have caused a disapproval under the initial filing, if it had been known.